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SENATE BILL 1111

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO PROPERTY; AMENDING THE CONDOMINIUM ACT; PROVIDING THAT A DISCLOSURE STATEMENT MAY BE DELIVERED PRIOR TO RECORDATION OF THE CONDOMINIUM DECLARATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-7D-3 NMSA 1978 (being Laws 1982, Chapter 27, Section 55) is amended to read:

"47-7D-3. DISCLOSURE STATEMENT--GENERAL PROVISIONS.--

A. A disclosure statement may be delivered to a purchaser prior to the recordation of the condominium declaration.

~~[A.]~~ B. Except as provided in Subsection ~~[B]~~ C of this section, a disclosure statement must contain or fully and accurately disclose:

(1) the name and principal address of the

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1 declarant and of the condominium;

2 (2) a general description of the condominium,
3 including to the extent possible the types, number and
4 declarant's schedule of commencement and completion of
5 construction of buildings and amenities that the declarant
6 anticipates including in the condominium;

7 (3) the number of units in the condominium;

8 (4) copies of the declaration, other than the
9 plats and plans, and any other recorded covenants, conditions,
10 restrictions and reservations affecting the condominium; the
11 bylaws and any rules or regulations of the association; copies
12 of any contracts and leases to be signed by purchasers at
13 closing; and a brief narrative description of any contracts or
14 leases that will or may be subject to cancellation by the
15 association under Section [~~38 of the Condominium Act~~] 47-7C-5
16 NMSA 1978;

17 (5) any current balance sheet and a projected
18 budget for the association, either within or as an exhibit to
19 the disclosure statement, for one year after the date of the
20 first conveyance to a purchaser, and thereafter the current
21 budget of the association, a statement of who prepared the
22 budget and a statement of the budget's assumptions concerning
23 occupancy and inflation factors. The budget shall include
24 without limitation:

25 (a) a statement of the amount or a

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1 statement that there is no amount included in the budget as a
2 reserve for repairs and replacement;

3 (b) a statement of any other reserves;

4 (c) the projected common expense
5 assessment by category of expenditures for the association;

6 and

7 (d) the projected monthly common
8 expense assessment for each type of unit;

9 (6) any services not reflected in the budget
10 that the declarant provides, or expenses that ~~[he]~~ the
11 declarant pays, and that ~~[he]~~ the declarant expects may become
12 at any subsequent time a common expense of the association and
13 the projected common expense assessment attributable to each
14 of those services or expenses for the association and for each
15 type of unit;

16 (7) any initial or special fee due from the
17 purchaser at closing, together with a description of the
18 purpose and method of calculating the fee;

19 (8) a description of any liens, defects or
20 encumbrances on or affecting the title to the condominium;

21 (9) a description of any financing offered or
22 arranged by the declarant;

23 (10) the terms and significant limitations of
24 any warranties provided by the declarant and limitations on
25 the enforcement ~~[thereof]~~ of them or on damages;

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(11) a statement that:

(a) within seven days after receipt of a disclosure statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant;

(b) if a declarant fails to provide a disclosure statement to a purchaser before conveying a unit, that purchaser may rescind the purchase within six months from the date of conveyance;

(c) shall set forth the procedures set forth in [~~Subsection~~] Subsections B and C of Section [~~60 of the Condominium Act~~] 47-7D-8 NMSA 1978; and

(d) if a purchaser receives the disclosure statement more than seven days before signing a contract to purchase a unit, [~~he~~] the purchaser cannot cancel the contract;

(12) a statement of any unsatisfied judgments or pending suits against the association and the status of any pending suits material to the condominium of which a declarant has actual knowledge;

(13) a statement that any deposit made in connection with the purchase of a unit shall be held in an escrow account until closing and shall be returned to the purchaser if the purchaser cancels the contract pursuant to Section [~~60 of the Condominium Act~~] 47-7D-8 NMSA 1978, together with the name and address of the escrow agent;

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[bracketed material] = delete

1 (14) any restraints on alienation of any
2 portion of the condominium;

3 (15) a description of the insurance coverage
4 provided for the benefit of unit owners;

5 (16) any current or expected fees or charges
6 to be paid by unit owners for the use of the common elements
7 and other facilities related to the condominium; and

8 (17) the extent to which financial
9 arrangements have been provided for completion of all
10 improvements labeled "MUST BE BUILT" pursuant to Section [21
11 of the Condominium Act] 47-7B-9 NMSA 1978.

12 [~~B-~~] C. If a condominium composed of not more than
13 twenty-five units is not subject to any development rights and
14 no power is reserved to a declarant to make the condominium
15 part of a larger condominium, group of condominiums or other
16 real estate, a public offering statement may but need not
17 include the information otherwise required by Paragraphs (9),
18 (10) and (15) through (17) of Subsection [A] B of this
19 section.

20 [~~C-~~] D. A declarant promptly shall amend the
21 disclosure statement to report any material change in the
22 information required by this section. "